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EXAMINER

GORDON, CARLENE MICHELLE

ART UNIT

PAPER NUMBER

2124

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/090,236

Applicant(s)

GOODE, DAVID HAROLD

Examiner

Carlene Gordon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is responsive to the application filed March 04, 2002.
Claims 1-23 have been submitted for examination.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

Reference 575 of Fig. 5B.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. A simple amendment will overcome this rejection.

The language of claims 1-9 are directed merely to an abstract idea that is not tied to a technological machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-3, 9-12, 16-19, 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Hohensee et al. (USPN 6,826,748), hereafter "**Hohensee**".

2. As to claim 1:

Hohensee discloses recognizing an occurrence of a first instruction in said source code that does not utilize said capability (col. 14 lines 6-8, "does not translate instructions stored in non-DRAM memory for instance, ROM BIOS for I/O devices"); and

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supplementing said source code with a second instruction that utilizes said capability (col. 14 lines 9-12 "Storage for translated native... code... FIFO").

3. As to claim 2:

Rejection of claim 1 is incorporated and further Hohensee discloses wherein said recognizing and said supplementing are performed when porting said source code from a first source file to a second source file (col. 14 lines 9-12 "Storage for translated native... code... FIFO").

4. As to claim 3:

Rejection of claim 1 is incorporated and further Hohensee discloses wherein said supplementing provides said second instruction as part of a module for opening a memory file for use as a temporary work file during execution of said source code (col. 14 lines 13-38 "binary translation" "memory manager" – The opening of the memory file for use as a temporary work file is inherent as the data is stored in memory to be operated on by the computer.).

5. As to claim 9:

Hohensee discloses recognizing an occurrence of a first instruction in said source code that does not utilize said capability (col. 14 lines 6-8, "does not translate instructions stored in non-DRAM memory for instance, ROM BIOS for I/O devices"); and

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supplementing said source code with a module that opens a memory file for use as a temporary work file during execution of said source code(col. 14 lines 13-38 "binary translation" "memory manager" The opening of the memory file for use as a temporary work file is inherent as the data is stored in memory to be operated on by the computer.),

wherein said recognizing and supplementing are performed when porting said source code from a first source file to a second source file (col. 14 lines 9-12 "Storage for translated native... code... FIFO").

6. As to claim 10:

Hohensee discloses a system for enhancing source code for execution on a computer platform that has a capability to employ a memory file, said system comprising a processor (Fig. 1; col. 2 "processor") for:

recognizing an occurrence of a first instruction in said source code that does not utilize said capability (col. 14 lines 6-8, "does not translate instructions stored in non-DRAM memory for instance, ROM BIOS for I/O devices"); and

supplementing said source code with a second instruction that utilizes said capability (col. 14 lines 9-12 "Storage for translated native... code... FIFO").

7. As to claim 11:

Rejection of claim 10 is incorporated and further see claim 2.

8. As to claim 12:

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Rejection of claim 10 is incorporated and further see claim 3.

9. As to claim 16:

Hohensee discloses a system for enhancing source code for execution on a computer platform that has a capability to employ a memory file, said system comprising a processor (Fig. 1; col. 2 "processor") for:

recognizing an occurrence of a first instruction in said source code that does not utilize said capability (col. 14 lines 6-8, "does not translate instructions stored in non-DRAM memory for instance, ROM BIOS for I/O devices"); and

supplementing said source code with a module that opens a memory file for use as a temporary work file during execution of said source code (col. 14 lines 13-38 "binary translation" "memory manager" The opening of the memory file for use as a temporary work file is inherent as the data is stored in memory to be operated on by the computer.),

wherein said recognizing and supplementing are performed when porting said source code from a first source file to a second source file (col. 14 lines 9-12 "Storage for translated native... code... FIFO").

10. As to claim 17:

Hohensee discloses a storage media for enhancing source code for execution on a computer platform that has a capability to employ a memory file, said storage media comprising instructions for controlling a processor (Fig. 1; col. 2 "processor" "storage") for:

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recognizing an occurrence of a first instruction in said source code that does not utilize said capability (col. 14 lines 6-8, "does not translate instructions stored in non-DRAM memory for instance, ROM BIOS for I/O devices"); and

supplementing said source code with a second instruction that utilizes said capability (col. 14 lines 9-12 "Storage for translated native... code... FIFO").

11. As to claim 18:

Rejection of claim 17 is incorporated and further see claim 2.

12. As to claim 19:

Rejection of claim 17 is incorporated and further see claim 3.

13. As to claim 23:

Hohensee discloses a storage media for enhancing source code for execution on a computer platform that has a capability to employ a memory file, said storage media comprising instructions for controlling a processor (Fig. 1; col. 2 "processor" "storage") for:

recognizing an occurrence of a first instruction in said source code that does not utilize said capability (col. 14 lines 6-8, "does not translate instructions stored in non-DRAM memory for instance, ROM BIOS for I/O devices"); and

supplementing said source code with a module that opens a memory file for use as a temporary work file during execution of said source code (col. 14 lines 13-38 "binary translation" "memory manager" The opening of the memory

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file for use as a temporary work file is inherent as the data is stored in memory to be operated on by the computer.),

wherein said recognizing and supplementing are performed when porting said source code from a first source file to a second source file (col. 14 lines 9-12 "Storage for translated native... code... FIFO").

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 4-8, 13-15, 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohensee as applied to claim 3 above, and further in view of Engle et al. (USPN 6,691,125), hereafter "**Engle**".

16. As to claim 4:

Rejection of claim 3 is incorporated and further Hohensee does not explicitly disclose, wherein said module is also for providing a handle for use by said source code to access said memory file subsequent to said opening of said memory file.

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However Engle discloses a module for providing a handle for use by said source code to access said memory file subsequent to said opening of said memory file (col. 5 lines 25-55 "... translates the file"; col. 5 line 42 – col. 6 line 19 "file converter... then passes handle").

At the time of the applicant's invention one of ordinary skill art in the art would have been motivated to combine the analogous method for translation code of Hohensee and Engle to provide a handle to access said memory file. The motivation to combine the method of Engle would have been because Engle provides a method of automatically specifying file conversions that does not require user intervention and prevents user frustration as suggested by Engle col.1 lines 40-51.

17. As to claim 5:

Rejection of claim 3 is incorporated and further Hohensee does not explicitly disclose, wherein said first instruction is for opening a permanent file, and wherein said module is also for reading data from said permanent file, and writing said data to said memory file.

However Engle discloses a first instruction is for opening a permanent file, and a module for reading data from said permanent file, and writing said data to said memory file (col. 5 lines 25-30 "file converter 222 translates" – It is inherent a first instruction is for opening a permanent file.; col. 1 lines 65-67 "converting... characters... from EBCDIC to ASCII").

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At the time of the applicant's invention one of ordinary skill art in the art would have been motivated to combine the analogous method for translation code of Hohensee and Engle to provide a handle to access said memory file. The motivation to combine the method of Engle would have been because Engle provides a method of automatically specifying file conversions that does not require user intervention and prevents user frustration as suggested by Engle col.1 lines 40-51.

18. As to claim 6:

Rejection of claim 3 is incorporated and further Hohensee does not explicitly disclose, wherein said first instruction is for reading data in EBCDIC format, and wherein said module is also for reading said data, converting said data from EBCDIC format to ASCII format, and writing said data to said memory file in ASCII format.

However Engle discloses a first instruction for reading data in EBCDIC format, and a module for reading said data, converting said data from EBCDIC format to ASCII format, and writing said data to said memory file in ASCII format (col. 5 lines 25-30 "file converter 222 translates" – It is inherent a first instruction is for reading data in EBCDIC format to perform the translation.; col. 1 lines 65-67 "converting... characters... from EBCDIC to ASCII").

At the time of the applicant's invention one of ordinary skill art in the art would have been motivated to combine the analogous method for translation code of Hohensee and Engle to provide a handle to access said memory file.

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The motivation to combine the method of Engle would have been because Engle provides a method of automatically specifying file conversions that does not require user intervention and prevents user frustration as suggested by Engle col.1 lines 40-51.

19. As to claim 7:

Rejection of claim 3 is incorporated and further Hohensee does not explicitly disclose, wherein said first instruction is for reading data in ASCII format, and wherein said module is also for reading said data, and writing said data to said memory file in ASCII format.

However Engle discloses a first instruction for reading data in ASCII format, and a module for reading said data, and writing said data to said memory file in ASCII format (col. 5 lines 25-30 "file converter 222 translates" – It is inherent a first instruction is for reading data in ASCII format to perform the translation.; col. 1 lines 65-67 "converting... characters... to ASCII").

At the time of the applicant's invention one of ordinary skill art in the art would have been motivated to combine the analogous method for translation code of Hohensee and Engle to provide a handle to access said memory file. The motivation to combine the method of Engle would have been because Engle provides a method of automatically specifying file conversions that does not require user intervention and prevents user frustration as suggested by Engle col.1 lines 40-51.

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20. As to claim 8:

Rejection of claim 7 is incorporated and further Engle discloses wherein said module is also for converting said data from said memory file into EBCDIC format, and writing said data in EBCDIC format to a permanent file (col. 6 lines 19-27 "file converter 226 converts to EBCDIC").

21. As to claim 13:

Rejection of claim 12 is incorporated and further see claim 5.

22. As to claim 14:

Rejection of claim 12 is incorporated and further see claim 6.

23. As to claim 15:

Rejection of claim 12 is incorporated and further see claim 7.

24. As to claim 20:

Rejection of claim 19 is incorporated and further see claim 5.

25. As to claim 21:

Rejection of claim 19 is incorporated and further see claim 6.

26. As to claim 22:

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Rejection of claim 19 is incorporated and further see claim 7.

Conclusion

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Zheng et al. (USPN 6,571,259).

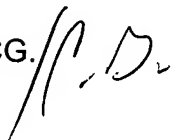
Poole et al. (US. Pub. No. 2002/0169781).

28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlene Gordon whose telephone number is (571) 272-3722. The examiner can normally be reached on Mon.-Fri. 10:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571) 272-3719. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG. 
ANIL KHATRI
PRIMARY EXAMINER